

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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UNITED STATES of AMERICA

Plaintiff,

-vs.-

FRANK PALOPOLI, SANDRA PALOPOLI,
HSBC MORTGAGE CORPORATION, WILSHIRE
CREDIT MORTGAGE CORPORATION, NEW YORK
STATE DEPARTMENT of TAXATION and FINANCE,
WINNICK & RICH, P.C., NICHOLAS & LEONARD, INC.,
JOSEPH PETRILLO, SHEAR-RITE STEEL CORP.,
DEUTSCHE BANK NATIONAL TRUST COMPANY,
and ZAVATSKY, MENDELSON & LEVY, LLP

Defendants.

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APPEARANCES:

United States Department of Justice, Tax Division

Attorney for the Plaintiff

Civil Trial Section, Northern Region

P.O. Box 55

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Washington, DC 20044

By: Lisa L. Bellamy, Trial Attorney

Kestenbaum & Mark

Attorney for Defendants Frank Palopoli & Sandra Palopoli

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By: Richard S. Kestenbaum, Esq., of Counsel

Milton Shaiman

Attorney for Defendant Joseph Petrillo

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Gutman & Gutman, LLP

Attorney for Defendant Shear-Rite Steel Corp.

19 Roslyn Road

Mineola, NY 11501

By: Lawrence C. Gutman, Esq., of Counsel

ORDER

09-cv-3482 (ADS) (WDW)

McGlinchey Stafford PLLC

Attorney for Defendant Deutsche Bank National Trust Company

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By: John J. Gable, Esq., of Counsel

Zavatsky, Mendelsohn, Gross, Savino & Levy

Attorney for Defendant Zavatsky, Mendelsohn, Gross, Savino & Levy

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P.O. Box 510

Syosset, NY 11791

NO APPEARANCE:

HSBC Mortgage Corporation

New York State Department of Taxation & Finance

Winick & Rich, P.C.

Nicholas & Leonard, Inc.

SPATT, District Judge.

The Plaintiff, the United States of America, initiated this action on August 11, 2009 against several Defendants, to reduce to judgment certain unpaid federal tax assessments against Frank Palopoli and to foreclose federal tax liens upon certain property. Four of the Defendants, HSBC Mortgage Corporation (“HSBC”), New York State Department of Taxation & Finance (the “Department”), Winick & Rich, P.C. (“Winick”), and Nicholas & Leonard, Inc. (“Nicholas”), are named as parties to this action because of their potential claim to an interest in the property upon which the United States seeks to foreclose its liens.

On October 5, 2011, the Court referred the matter to United States Magistrate Judge William D. Wall for a recommendation as to whether a motion for default judgment should be granted against HSBC, the Department, Winick, and Nicholas, and if so, to determine what relief is appropriate. On November 4, 2011, Judge Wall issued a Report recommending that a default judgment be entered against the defaulting Defendants and that an entry of judgment noting that the defaulting Defendants have no right, title, claim or interest in the property owned by the Defendants Frank Palapoli and Sandra Palapoli. To date, no objection has been filed to Judge Wall’s Report and Recommendation.

In reviewing a report and recommendation, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Wall’s Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Wall’s Report, the Court adopts the Report.

For the foregoing reasons, it is hereby:

ORDERED that Judge Wall’s Report and Recommendation is adopted in its entirety, and it is further

ORDERED that the Clerk of the Court is directed to enter a default judgment against the four defaulting defendants and award the relief recommended by Judge Wall; namely that the defaulting Defendants have no right, title, claim or interest in the property owned by the Defendants Frank Palapoli and Sandra Palapoli.

SO ORDERED.

Dated: Central Islip, New York
December 7, 2011

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge